

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

JERAMIE RENO, et al.,

Respondent,

v.

ROBIN R. GONZALES,

Appellant.

DOCKET NUMBER WD78439

Date: May 10, 2016

Appeal from:
Clay County Circuit Court
The Honorable David P. Chamberlain, Judge

Appellate Judges:
Division Four: Alok Ahuja, C.J., P.J., Thomas H. Newton, J. and Charles H. McKenzie, Sp. J.

Attorneys:
Laura C. Bornstein, Kansas City, MO for appellant
Jeramie Reno, Pro Se Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

COURT OF APPEALS -- WESTERN DISTRICT

JERAMIE RENO, et al.

Respondent,

v.

ROBIN R. GONZALES,

Appellant.

WD78439

Clay County

Appellant Robin Gonzales and Respondent Jeramie Reno have a son, born in December 2006. Reno filed a petition in the Circuit Court of Clay County to determine his paternity, and address issues of child custody, support, and visitation. Gonzales filed a counter-petition. Following a bench trial, the circuit court ordered that Gonzales and Reno have joint legal custody of their son. It also ordered that Gonzales have sole physical custody, and adopted a parenting plan which gave Reno substantial unsupervised visitation.

Gonzales appeals, arguing that the trial court erred by ordering joint legal custody, and awarding Reno unsupervised visitation.

REVERSED, AND REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH OPINION.

Division Four holds:

Where joint legal custody is ordered, “parents share the decision-making rights, responsibilities, and authority relating to the health, education and welfare of the child.” § 452.375(2), RSMo. Although §§ 452.375.4 and .5 express a legislative preference for joint legal custody, the paramount consideration is the best interests of the child. Joint legal custody is only appropriate if the evidence indicates that the parents are able to communicate and cooperate to make shared decisions concerning the welfare of the child. In the absence of such evidence, joint legal custody is inappropriate, and a trial court’s award of joint legal custody will be reversed.

In this case, the trial court’s own judgment finds that “the parties had shown no commonality of beliefs concerning parental decisions and had demonstrated neither willingness nor ability to function as a unit in making these decisions.” Given the trial court’s own findings, the award of joint legal custody is reversed. The case is remanded to the circuit court for further proceedings with respect to the legal custody issue.

In view of our holding that the evidence in the record does not support an award of joint legal custody, we conclude that the trial court should have the opportunity upon remand to reconsider the issue of physical custody as well, after a hearing at which both parties will be given the opportunity to present evidence concerning the most appropriate physical custody plan for the child.

Before: Division Four: Alok Ahuja, C.J., P.J., Thomas H. Newton, J. and Charles H. McKenzie, Sp. J.

Opinion by: Alok Ahuja, Chief Judge

May 10, 2016

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